



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2012-0712]

RIN 1625-AA87

Security Zones; Certain Dangerous Cargo Vessels, Tampa, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

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SUMMARY: The Coast Guard is establishing temporary moving security zones around Certain Dangerous Cargo (CDC) vessels, which are vessels carrying anhydrous ammonia, liquefied propane gas (LPG), and ammonium nitrate. The security zones will start at buoys 3 and 4 in Tampa Bay "F" cut following the vessel to the pier, from pier to pier for berth shifts, and from the pier out to buoys 3 and 4 in Tampa Bay "F" cut. The security zones are to be implemented during the 2012 Republican National Convention from August 25, 2012, through August 31, 2012.

DATES: This rule is effective from 12:01 p.m. on August 25, 2012, through 11:59 a.m. on August 31, 2012.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG-2012-0712. To view documents mentioned in

this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Marine Science Technician First Class Nolan L. Ammons, Sector St. Petersburg Prevention Department, Coast Guard; telephone (813) 228-2191, e-mail D07-SMB-Tampa-WWM@uscg.mil. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Table of Acronyms

DHS	Department of Homeland Security
CDC	Certain Dangerous Cargo
FR	Federal Register
NPRM	Notice of Proposed Rulemaking

#### A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to

authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the Coast Guard did not receive notice of the need for these security zones until July 19, 2012. As a result, the Coast Guard did not have sufficient time to publish an NPRM and to receive public comments prior to implementation of the security zones. Any delay in the effective date of this rule would be contrary to the public interest because immediate action is needed to minimize potential danger to the convention delegates, official parties, dignitaries, the public, and surrounding waterways.

For the same reason discussed above, under 5 U.S.C. 553(d)(3) the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register.

## B. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish regulated navigation areas and other limited access areas: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

The purpose of this rule is to provide for the safety and security of convention delegates, official parties, dignitaries, and the public during the 2012 Republican National Convention.

## C. Discussion of Rule

The security zones will be effective and enforced from August 25, 2012 through August 31, 2012, during the 2012 Republican National Convention held in Tampa, Florida.

The Secretary of the Department of Homeland Security has designated the 2012 Republican National Convention as a National Special Security Event. National Special Security Events are significant events, which, due to their political, economic, social, or religious significance, may render them particularly attractive targets of terrorism or other criminal activity. The Federal government provides support, assistance, and resources to state and local governments to ensure public safety and security during

National Special Security Events.

Numerous Federal, State, and local agencies, including the U.S. Secret Service, Federal Bureau of Investigation, Customs and Border Protection, U.S. Coast Guard, and the Joint Terrorism Task Force, have developed comprehensive security plans to protect participants and the public during the Republican National Convention. As part of the comprehensive effort, the maritime security objective is to protect Convention participants, the maritime transportation system, and maritime stakeholders, including recreational boaters, from threats and security vulnerabilities. The Coast Guard and other Federal, State, and local agencies involved in security for the 2012 Republican National Convention have conducted threat, vulnerability, and risk analyses relating to the event.

The convention is expected to draw widespread protests by persons dissatisfied with national policy, foreign policy, and the Republican Party agenda. This politically-oriented event has the potential to attract anarchists and others persons intent on expressing their opposition through violence and criminal activity. The convention also presents an attractive target for terrorist and extremist organizations. Current analysis indicates that some activist groups are planning maritime activities to

make their political views known.

Maritime security vulnerabilities during the 2012 Republican National Convention extend beyond the Convention site and include secondary venues throughout the Tampa Bay area. Considerable law enforcement presence on land may render maritime approaches a viable alternative for activist groups. The City of Tampa has critical infrastructure in its port area, which is proximate to the downtown area and the Convention's main venues. The Port of Tampa is an industrial-based port, with significant storage and shipment of hazardous materials.

The security zones and accompanying security measures have been specifically developed to mitigate the threats and vulnerabilities identified in the analysis discussed above. Security measures have been limited to the minimum necessary to mitigate risks associated with the identified threats.

The rule will establish moving security zones around Certain Dangerous Cargo (CDC) vessels in the Captain of the Port St. Petersburg Zone during the 2012 Republican National Convention in Tampa, Florida. A CDC vessel is one carrying anhydrous ammonia, liquefied propane gas, and ammonium nitrate. The security zones prohibit any vessel from entering within 500 yards of a CDC vessel. The

security zones will start at buoys 3 and 4 in Tampa Bay "F" cut following the vessel to the pier, from pier to pier for berth shifts, and from the pier out to buoys 3 and 4 in Tampa Bay "F" cut.

All persons and vessels desiring to enter or remain within the regulated areas may contact the Captain of the Port St. Petersburg by telephone at (727) 824-7524, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter or remain within the regulated areas is granted by the Captain of the Port St. Petersburg or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port St. Petersburg or a designated representative. Recreational vessels authorized to enter or remain within the regulated areas may be subject to boarding and inspection of the vessel and persons onboard.

The security zones would be enforced from 12:01 p.m. on August 25, 2012, through 11:59 a.m. on August 31, 2012.

A Port Community Information Bulletin (PCIB) will be distributed by Coast Guard Sector St. Petersburg. The PCIB will be available on the Coast Guard internet web portal at <http://homeport.uscg.mil>. PCIBs are located under the Port Directory tab in the Safety and Security Alert links. The

Coast Guard would provide notice of the security zones by Local Notice to Mariners, Broadcast Notice to Mariners, public outreach, and on-scene designated representatives.

#### D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

##### 1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under that Order.

The economic impact of this rule is not significant for the following reasons: (1) the security zones will be enforced for a total of 144 hours, and only while CDC vessels are transiting within Tampa Bay; (2) vessels will be authorized to transit the security zones with the permission of the Captain of the Port or a designated representative; (3) vessels may operate in the surrounding area during the enforcement period; and (4) the Coast Guard

would provide advance notification of the security zones to the local community by Local Notice to Mariners, Broadcast Notice to Mariners, and public outreach.

## 2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to enter or remain within those portions of the security zones encompassing Certain Dangerous Cargo vessels while transiting through Tampa Bay from 12:01 p.m. on August 25, 2012 through 11:59 a.m. on August 31, 2012. For the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

## 3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization,

or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### 4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### 5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution

of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

#### 6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

#### 7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### 8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order

12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### 9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### 10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### 11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

## 12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

## 13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

## 14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a moving security zone around vessels containing certain dangerous cargo. This rule is categorically excluded from further review under paragraph (34)(g) of figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that

may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165--REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add a temporary § 165.T07-0712 to read as follows:

§ 165.T07-0712 Security Zones; Certain Dangerous Cargo

Vessels, Captain of the Port St. Petersburg Zone, Tampa, FL.

(a) Regulated Areas. The following regulated areas are moving security zones around vessels containing Certain Dangerous Cargo (CDC).

(1) All waters within a 500 yard radius around any CDC vessel as the vessel transits into Tampa Bay, starting at Tampa Bay Cut "F" Channel at Lighted Buoys "3F" and "4F"

and continuing until the CDC vessel moors at the receiving facility.

(2) All waters within a 500 yard radius around any CDC vessel as the vessel departs Tampa Bay, starting when the vessel unmoors from the receiving terminal and continuing until the vessel passes Tampa Bay Cut "F" Channel at Lighted Buoys "3F" and "4F."

(b) Definitions.

(1) The term "designated representative" means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port St. Petersburg in the enforcement of the regulated areas.

(2) The term "Certain Dangerous Cargo vessel" or "CDC vessel" is a vessel carrying Anhydrous Ammonia (NH<sub>3</sub>), Liquefied Petroleum Gas (LPG), or Ammonium Nitrate (NH<sub>4</sub>) and that is escorted by a U.S. Coast Guard vessel.

(c) Regulations.

(1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within moving security Zones unless authorized by the Captain of the Port St. Petersburg or a designated representative.

(2) All persons and vessels desiring to enter or remain within the regulated areas may contact the Captain of the Port St. Petersburg by telephone at (727) 824-7524, or a designated representative via VHF radio on channel 16, to request authorization.

(3) Any vessel or person receiving authorization to enter the moving security zone must comply with any instructions issued by the Captain of the Port or a designated representative, including the following:

(i) No vessel may enter within a 100 yard radius of the CDC vessel at any time;

(ii) Vessels authorized to enter the security zone must proceed at the minimum speed necessary to maintain safe navigation; and

(iii) Vessels authorized to enter the security zone are subject to boarding and inspection of the vessel and persons onboard.

(4) The Coast Guard will provide notice of the regulated areas by Local Notice to Mariners, Broadcast Notice to Mariners, public outreach, and on-scene designated representatives. A Port Community Information Bulletin is available on the Coast Guard internet web portal at <http://homeport.uscg.mil>. Port Community Information Bulletins are located under the Port Directory

tab in the Safety and Security Alert links.

(d) Effective Date. This rule is effective from 12:01 p.m. on August 25, 2012, through 11:59 a.m. on August 31, 2012.

Dated: August 12, 2012

S. L. Dickinson  
Captain, U.S. Coast Guard  
Captain of the Port

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Publication Date: 08/23/2012]